IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 6TH JUNE 2007 / 16TH JYAISHTA 1929

OP.No. 19181 of 2000(H)

PETITIONER:

---

1. K.REGHUNANDANAN THAMPI,
AGED 47 YEARS, SON OF V.KUMARADAS,
SELECTION GRADE SENIOR TIME KEEPER,
TRAVANCORE TITANIUM PRODUCTS LTD.,
THIRUVANANTHAPURAM
RESIDING AT T.C.36/564, 'POURNAMI',
PALKULANGARA, VALLAKADAVU POST.,
THIRUVANANTHAPURAM.

2. C.VIJAYAKUMARAN, AGED 47 YEARS,
SON OF L.CHELLAYYAN,
SELECTION GRADE SENIOR TIME KEEPER,
TRAVANCORE TITANIUM PRODUCTS LTD.,
THIRUVANANTHAPURAM
RESIDING AT T.C.18/1589(2),
KUNNAPUZHA, ARAMADA POST.,
THIRUVANANTHAPURAM-22.

BY ADV. SRI.K.L.NARASIMHAN
SMT.SIDHU S. PILLAI

RESPONDENTS:

---

1. STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY,
SECRETARIAT,
THIRUVANANTHAPURAM

2. MANAGING DIRECTOR,
TRAVANCORE TITANIUM PRODUCTS LTD.,
THIRUVANANTHAPURAM

3. T.P.ABRAHAM,
SECTION OFFICER,
TRAVANCORE TITANIUM PRODUCTS LTD.,
THIRUVANANTHAPURAM

4. ARUMUGHOM PILLAI S.,
SECTION OFFICER,
TRAVANCORE TITANIUM PRODUCTS LTD.,
THIRUVANANTHAPURAM

5. SUMEDHAN R.,
SECTION OFFICER,
TRAVANCORE TITANIUM PRODUCTS LTD.,
THIRUVANANTHAPURAM

BY FOR R2, ADV. SRI.KOSHY GEORGE
FOR R3, R4 AND R5, SRI.PIRAPPANCODE V.S.SUDHIR
SRI.SAJU JOHN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 06/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP.No. 19181 of 2000(H)

APPENDIX

ORDER ON C.M.P.NO.31981/2000

CLOSED.

SD/-THOTTATHIL B.RADHAKRISHNAN, JUDGE

06/06/2007

PETITIONER'S EXTS:

EXT.P1 TRUE COPY OF SUBORDINATE SERVICE RULES EFFECTIVE FROM JUNE 1977

EXT.P2 DATED 23/10/1978 TRUE COPY OF PROCEEDINGS ISSUED BY THE SECOND RESPONDENT.

EXT.P3 DATED 13/02/1978, TRUE COPY OF THE PROCEEDINGS ISSUED BY THE SECOND RESPONDENT.

EXT.P4 TRUE COPY OF THE COMMUNICATION ISSUED BY THE KERALA PUBLIC COMMISSION DATED 22/12/1982

EXT.P5 TRUE COPY OF THE REPRESENTATION BEFORE THE SECOND RESPONDENT DATED 17/09/1980

EXT.P6 TRUE COPY OF THE REPRESENTATION BEFORE THE SECOND RESPONDENT DATED 04/06/1981

EXT.P7 TRUE COPY OF THE REPRESENTATION BEFORE THE SECOND RESPONDENT DATED 02/12/1981

EXT.P8 TRUE COPY OF THE REPRESENTATION BEFORE THE SECOND RESPONDENT DATED 26/07/1982

EXT.P9 TRUE COPY OF THE REPRESENTATION BEFORE THE KERALA PUBLIC SERVICE COMMISSION DATED 18/11/1982.

EXT.P10 TRUE COPY OF THE REPRESENTATION BEFORE THE SECOND RESPONDENT DATED 13/01/1983

EXT.P11 TRUE COPY OF THE REPRESENTATION BEFORE THE SECOND RESPONDENT DATED 22/1/1983

EXT.P12 TRUE COPY OF THE REPRESENTATION BEFORE THE SECOND RESPONDENT DATED 15/5/1984

EXT.P13 TRUE COPY OF THE REPRESENTATION BEFORE THE SECOND RESPONDENT DATED 14/08/1987

EXT.P14 TRUE COPY OF THE REPRESENTATION BEFORE THE SECOND RESPONDENT dated 11/87

EXT.P15 TRUE COPY OF THE REPRESENTATION BEFORE THE SECOND RESPONDENT DATED 11/08/1992

EXT.P16 DATED 23/03/1996, TRUE COPY OF THE REPRESENTATION BEFORE THE HON'BLE MINISTER FOR INDUSTRIES, KERALA

EXT.P17 DATED 26/6/1996, TRUE COY OF THE REPRESENTATION BEFORE THE SECOND RESPONDENT

EXT.P18 DATED 25/7/1997, TRUE COPY OF THE REPRESENTATION BEFORE THE SECOND RESPONDENT

EXT.P19 DATED 07/02/1999, TRUE COPY OF THE REPRESENTATION BEFORE THE SECOND RESPONDENT

EXT.P20 DATED 19/08/1999, TRUE COPY OF THE REPRESENTATION BEFORE THE SECOND RESPONDENT

EXT.P21 DATED 19/04/2000, TRUE COPY OF THE COMMUNICATION TO THE PETITIONERS BY THE SECOND RESPONDENT

RESPONDENTS' EXTS:

EXT.R2(a) TRUE COPY OF MD'S ORDER NO.08/73 DATED 28/02/1973

EXT.R2(b) TRUE COPY OF THE ORDER OF PSC DATED 22/03/1978

EXT.R2(c) TRUE COPY OF LETTER DATED 18/09/1982 ISSUED BY THE COMMR.&SPECIAL SECRETARY TO GOVT. TO THE MANAGING DIRECTOR.

EXT.R2(d) TRUE COPY OF LETTER DATED 16/01/1979 OF THE SECRETARY KPSC TO THE MANAGING DIRECTOR.

EXT.R2(e) TRUE COPY OF ORDER DATED 22/11/1978

EXT.R2(f) TRUE COPY OF LETTER DATED 25/02/1981 ISSUED TO THE SECRETARY KPSC

EXT.R2(g) TRUE COPY OF LETTER DATED 29/05/1982 ISSUED BY SECRETARY KPSC TO THE MANAGING DIRECTOR.

EXT.R2(h) TRUE COPY OF LETTER DATED 07/09/1982 TO THE SECRETARY, KPSC

EXT.R2(i) TRUE COPY OF LETTER DATED 30/10/1982 TO THE SECRETARY KPSC

EXT.R2(j) TRUE COPY OF LETTER DATED 28/03/1983 ISSUED TO THE SECRETARY KPSC

EXT.R2(k)(i) TRUE COPY OF THE ORDER OF MANAGING DIRECTOR NO.059/79 DATED 22/11/1978

EXT.R2(k)(ii) TRUE COPY OF THE ORDER NO.060/79 DATED 22/11/1979 OF MANAGING DIRECTOR.

EXT.R2(k)(iii) TRUE COPY OF MANAGING DIRECTOR'S ORDER NO.062/79 DATED 24/11/1979

EXT.R2(l) TRUE COPY OF THE BIPARTIE SETTLEMENT

EXT.R2(m) TRUE COPY OF MD'S ORDER NO.16a/94 DATED 12/5/1994

EXT.R2(n) TRUE COPY OF ED(C&A)'S ORDER NO.08/2000 DATED 11/04/2000

EXT.R2(o) TRUE COPY OF THE REPORT FURNISHED TO THE PRINCIPAL SECRETARY TO GOVERNMENT.

EXT.R2(p) TRUE COPY OF MEMO NO.PL/B/TK/97 DATED 06/10/1997

EXT.R2(q) TRUE COPY OF MEMO NO.PL/B/TK/2000 DATED 19/04/2000.

EXT.R3(a) TRUE COPY OF THE NOTICE DATED 24/03/1986 OF THE MANAGER (PERSONNEL & ADMINISTRATION)

EXT.R3(b) TRUE COPY OF THE RELEVANT EXTRACT OF THE GRADATION LIST OF THE EMPLOYEES.

\\TRUE COPY//

THOTTATHIL B. RADHAKRISHNAN, J.

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

O.P.No.19181 of 2000

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

Dated this the 6th day of June, 2007

J U D G M E N T

This writ petition is filed on 03/07/2000. Petitioners, two in number, contended that they graduated in the year 1974 and joined the service of the Travancore Titanium Products Ltd., a government company, on 10/02/1977 and 01/06/1977 respectively, as Junior Time Keepers. In terms of the Sub-ordinate Service Rules of that company, with effect from June 1977, Junior Time Keepers, Junior Clerks, Stores Assistants and Typists formed a composite category for promotion to the category of Senior Clerk in the Administrative Department. They were to be considered subject to Rules with Public Service Commission, thereby, meaning the Kerala Public Service Commission, which is not a party to this original petition. On 26/08/1978, the Managing Director of the Company, as per order No.028/1978, made amendment No.2 to Ext.P1 Sub-ordinate Service Rules, referring to letters dated 22/03/1978 and

17/07/1978 issued by the KPSC. Thereby, the method of recruitment to the category of Senior Clerk was confined to promotion from among Junior Clerks. This means, the category of Junior Time Keeper, to which the petitioners belonged, got excluded by that process. From 1978, this issue was admitted to be raked up, but consistently turned down by the KPSC by stating that the initial recruitment of the petitioners as Junior Time Keepers was made without following the selective procedure with the KPSC. I may at once notice that while it is the admitted case of the petitioners that their employment was only in February and June, 1977, KPSC (Additional Functions as Respects Certain Corporations and Companies) Act, 1970 came into force with its publication in the Official Gazette on 30/11/1970 and the KPSC (Consultation by Corporation and Companies) Rules, 1971 came into force by its publication in the Gazette on 11/05/1971. By virtue of Rule 2(a) of those Rules, introduced by amendment published on 15/09/1974, no appointment of post brought under the purview of KPSC was to be made, except on the advice of the Commission.

2. Whatever be the compulsion on the company to consult the KPSC regarding the recruitment of Junior Time Keepers, the fact remains that after the refusal to consider the petitioners for promotion as Senior Clerks, that issue continued to be a matter of repeated considerations by the company and the KPSC, which ultimately led to the situation, whereby, the category of Senior Time Keeper was brought into being and the petitioners were placed into that category. The said action was also following the stand taken by the petitioners and the Trade Unions that the suggestion of the KPSC to consider the cases for promotion on condition that on promotion, they would be placed junior to all the existing Senior Clerks was not acceptable. Thereafter, it is also stated that one among the petitioners has moved up the ladder to be a Section Officer. Even if I were to treat the impugned decision having been rendered only within a year before the filing of the original petition, the materials produced by the company along with the counter affidavit of the second respondent abundantly show that the finality of such facts situation was obtained long ago. With the passage of time, I do not deem it appropriate to disturb the situation obtained as of

now.

For the foregoing reasons, the original petition fails and the same is, accordingly, dismissed.

THOTTATHIL B.RADHAKRISHNAN
Judge

ms

THOTTATHIL B. RADHAKRISHNAN, J.

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

O.P.No. 19181 of 2000

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

J U D G M E N T

6th June, 2007